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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,726	03/18/2002	Guido Waeschenbach	11777-678001	3499

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EXAMINER	
DOUYON, LORNA M	
ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/744,726	WAESCHENBACH ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 March 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *50-98* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *50-98* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *5* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description, i.e., original claims 1-2, 25, 43 and 44, reference to 8' and 9' are not illustrated in the drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 50-51, 74, 92, 94 and 97 refer to 8' and 9' (support of which is found in original claims 1-2, 25, 43 and 44), however, the specification does not provide antecedent basis for these reference numbers. It is suggested that reference to these numbers be incorporated into the appropriate sections of the specification.

Claim Rejections - 35 USC § 112

3. Claims 50-98 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 50-52, 54, 74 and 97 the phrase "a/the specific compound" is unclear because it is not known what this compound is.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 50-52, 73-79, 91, 94-98 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al. (US Patent No. 4,801,636), hereinafter Smith.

Smith teaches articles of manufacture 10', in the form of microcapsules of polymeric material 16' which enclose a comminuted wash additive 14' (see Figures 2-2A; col. 5, lines 64-68). Smith also teaches one particularly preferred embodiment which is a mixture of a perborate bleach with the articles of the invention, wherein the perborate bleach includes sodium carbonate along with sodium perborate , and would dissolve in the wash portion of the wash cycle, raising the pH and providing borate anions and as a result, the aqueous liquid present during the wash portion of the wash cycle is at a relatively high pH which significantly retard film dissolution and prevent release of the additive during the wash portion of the wash cycle. During the rinse portion of the

wash cycle, the pH drops markedly and the borate concentration is very significantly reduced, solubilizing the polymeric material and releasing the additive. An example of the polymeric film is a mixture of polyvinyl alcohol and hydroxybutyl methylcellulose (see col. 7, lines 3-39; Table 6). The wash additive which may be substantially surrounded by the polymeric material may be of any desired nature, for example in the case of dishwashing, an antispotting agent, a perfume, or the like (see col. 6, lines 53-58). Smith teaches the limitations of the instant claims. Hence, Smith anticipates the claims.

6. Claims 50-54, 64-67, 73-79 and 97 are rejected under 35 U.S.C. 102(a) as being anticipated by Speed et al. (WO 99/27067), hereinafter "Speed".

Speed teaches a detergent tablet comprising a compressed portion and a non-compressed portion wherein the compressed portion comprises a mold and dissolves at a faster rate than the non-compressed portion (see abstract), the non-compressed portion comprising a finishing additive which is a rinse aid (see page 3, last two lines) which dissolves in the rinsing cycle of a dishwashing machine (see page 4, lines 22-30). The mold preferably at least partially accommodates one or more non-compressed portions (see page 7, lines 20-22). The non-compressed portion of the detergent tablet may be in solid form (see page 6, lines 16-22). The non-compressed portion is affixed to the compressed portion by adhesion or by forming a coating over the non-compressed layer to secure it to the compressed portion (see page 7, lines 4-6; 26-28). Delayed dissolution of the non-compressed portion may be achieved by encapsulation with a

component which is slow dissolving or partially soluble in water such as cellulose and cellulose derivatives (see page 14, last paragraph), or with a coating layer (see page 15, lines 17-20) such as polyvinyl acetate (see page 13, lines 12-16). The compressed portion of the detergent tablet comprises at least one detergent component or a mixture of more than one detergent component such as builder, surfactant and an alkalinity source (see page 5, lines 1-9). The compressed and non-compressed portions are formulated to deliver different pH (see page 74, last line to page 75, line 1). Speed also teaches a machine dishwashing method which comprises treating soiled articles with an aqueous liquid having dissolved or dispersed therein an effective amount of a dishwashing detergent tablet as above (see page 75, lines 16-23). Speed teaches the limitations of the instant claims. Hence, Speed anticipates the claims.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a **translation** of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith as applied to the above claims, and further in view of Fry et al. (US Patent No. 5,360,567).

Smith teaches the features as described above. Smith, however, fails to disclose the composition in tablet form.

Fry teaches a similar heavy duty detergent composition in tablet form wherein the tablet form offers several advantages over powdered products in that the tablet does not require measuring and are thus easier to handle and dispense into the washload, and that the tablet is more compact, hence facilitating more economical storage (see col. 1, lines 13-19; col. 6, lines 56-61).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare the composition of Smith in tablet form because the tablet form offers several advantages over powdered products in that the tablet does not require measuring and are thus

easier to handle and dispense into the washload, and that the tablet is more compact, hence facilitating more economical storage as taught by Fry.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 50-96 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40-76 of copending Application No. **09/509,642;** claims 93-134 of copending Application No. **09/744,723** and claims 52-102 of copending Application No. **09/744,724**. Although the conflicting claims are not identical, they are not patentably distinct from each other because all sets of claims are drawn to similar compositions having a basic composition and at least one particle having at least one core and a covering having overlapping dissolution rates of the covering, and differing only in their

intended uses. The two different intended uses, however, are not distinguishable in terms of the composition.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

12. Claims 50-98 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 85-126 of copending Application No. **09/744,727**. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar compositions comprising a tablet/composition, a particle having a core and an envelope/covering surrounding the core with overlapping dissolution rates of the covering.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

13. Claims 50-96 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. **6,514,429**. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar compositions comprising a tablet/composition, a particle having a core and an envelope/covering surrounding the core differing only in their intended uses. The two different intended uses, however, are not distinguishable in terms of the composition.

14. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

(703) 872-9311 - for Official After Final faxes
(703) 872-9310- for all other Official faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

Lorna M. Douyon

Lorna M. Douyon
Primary Examiner
Art Unit 1751

September 8, 2003